

Docket No.: T7093.0016/P016
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stephen P. Forte

Application No.: 09/879,917

Confirmation No.: 5556

Filed: June 14, 2001

Art Unit: 2618

For: METHOD AND APPARATUS FOR
COMMUNICATING VIA VIRTUAL OFFICE
TELEPHONE EXTENSIONS

Examiner: A. Perez

APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. § 41.41

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is filed pursuant to 37 C.F.R. § 41.41 and is responsive to the Examiner's Answer mailed October 18, 2007 in connection with the appeal from the final rejection of claims 1-26 and 29 in the above-identified U.S. patent application.

I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 27 claims pending in application.

B. Current Status of Claims

1. Claims canceled: Claims 27 and 28.
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: Claims 1-26 and 29.
4. Claims allowed: None.
5. Claims rejected: Claims 1-26 and 29.

C. Claims On Appeal

The claims on appeal are claims 1-26 and 29.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. The rejection of claims 1-3, 5, 8, 10-13, 15-18 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier (U.S. Patent No. 5,978,672) in view of Jackson (U.S. Patent No. 6,275,577) and LaPierre (U.S. Patent No. 6,771,761).

B. The rejection of claims 4, 6, 7 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Chow (U.S. Patent No. 6,711,401).

C. The rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Cox (U.S. Publication No. 2002/0013141).

D. The rejection of claims 19-23, 25 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Karpus (U.S. Patent No. 5,884,191).

E. The rejection of claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre, Karpus and Chow.

III. ARGUMENT

Although the Examiner's Answer does not raise any new grounds for rejection, Appellant writes briefly here to respond to the Examiner's remarks regarding Appellant's arguments in the Appeal Brief. Appellant incorporates its comments from its Appeal Brief, dated July 10, 2007.

Appellant provides the following comments in response to the Examiner's arguments on pages 18-22 of the Examiner's Answer.

With respect to claims 1-18 and 26, the Examiner responds to Appellant's arguments regarding the Jackson reference on pages 18-20 of the Examiner's Answer. Appellant again respectfully submits that Jackson does not teach or suggest a device that routes a "call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths" and connects "the call to a user by connecting said first communication path to the second or third communication path when the second or third communication path is authenticated by the user," as recited in claim 1. (Emphasis added). Instead, Jackson merely refers to a call routing system having a router 16 that sends a page request to a pager 20 and a call request to a wireless phone 18 in response to an inbound call. Jackson at col. 2, lines 1-42.

The Examiner, however, states that "Jackson explicitly states a call being routed to the pager." Examiner's Answer at 19. As argued several times before, in Jackson the incoming call is not forwarded to and thus cannot be answered by the user at the pager 20; instead, the pager 20 only receives a page (via a page request). A page is not a call. Hence, Jackson cannot connect the incoming call to the pager's communication path. In other words, the pager is a one-way communication device. Jackson's pager 20, or any pager for that matter, does not have the capability to authenticate and/or answer an incoming call. Thus, Jackson is entirely different than the claim 1 invention, which recites that the "call" is routed to "at least two wireless destination telephone numbers . . . via respective second and third communication paths" and connects "the call to a user by connecting said first communication path to the second or third communication path when the second or third communication path is authenticated by the user." (Emphasis added).

Further, the Jackson pager 20 serves only as a notifying function to alert the called party that he/she has a call at the wireless phone 18. A call is not sent to the Jackson pager 20, nor can a call be answered or authenticated at the Jackson pager 20. A pager, as known in the art, is not a bi-directional communication device as suggested by the Examiner. Examiner's Answer at page 20. A pager is a one-way communication device in which the intended receiver is alerted to retrieve a

message or return a phone call using a telephone (not the pager itself). *See* e.g., Definition at www.ojp.usdoj.gov/nij/publications/wireless/glossary.html. Therefore, absent these teachings and contrary to the position of the Examiner, Jackson must fail to teach or suggest the claim 1 invention. In summary, Jackson only discloses a system in which the user can answer the incoming call using one communication path (to the wireless phone 18) whereas in the claimed invention, the user can answer the incoming call using either the second or third communication path, associated with two different wireless devices (e.g., 82, 70) that can answer and/or authenticate a call. Accordingly, the arguments of the Examiner's Answer are incorrect and do not rebut the arguments of Appellant's Appeal Brief.

Regarding claims 19-25 and 29, the Examiner argues that Appellant's position regarding the Karpus reference is unpersuasive. Examiner's Answer at page 21. Appellant respectfully submits, however, that Karpus simply does not teach or suggest "determining access rights for a user of the wireless telephone and if the user has rights to access the enterprise telecommunication network, generating and sending a simulated dial tone to the wireless telephone and providing access to [an] enterprise telecommunication network," as recited in claim 19 (and similarly recited in claim 29). In particular, and as argued previously, Karpus is concerned with granting accessory devices (e.g., speakerphone 170, handset 180, modem 190) access rights to the audio channel of a cellular telephone 110. This is a major difference between the claimed invention and Karpus. In Karpus, dial tones are being sent to devices that use dial tones (e.g., speakerphone 170, handset 180, modem 190). The claimed invention, on the other hand, is generating and sending a dial tone to a device that does not use dial tones (*i.e.*, wireless telephones such as, *e.g.*, cellular telephones) to indicate that the wireless telephone has been granted access to a communication network (not an audio channel of a phone).

The Examiner's counter-argument relies on her definition of the term "wireless telephone" as including cordless phones and handsets. This argument, however, misses the point. The present application clearly focuses on providing a dial tone to cellular, wireless devices, which do not use dial tones. Devices that normally use dial tones such as *e.g.*, speakerphones, handsets, etc.) do not require a simulated dial tone because they get real dial tones. Thus, contrary to the Examiner's

Answer and in light of the specification, the present application does not contemplate such a broad definition as the Examiner now applies.

The claimed invention is markedly different than Karpus. Appellant respectfully submits that the Examiner's Answer is simply improperly interpreting the claimed term "wireless telephone." By characterizing the term "wireless telephone" as suggested by the Examiner's Answer, the Examiner has put forward an unreasonably broad interpretation of the term, which is also inconsistent with the meaning that the term would have had to a person of ordinary skill in the art when reading Appellant's specification. It is well settled that during examination claims are to be given their "broadest reasonable interpretation consistent with the specification." *In re American Academy of Science Tech. Center*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)(emphasis added). In view of the Appellant's specification, there can be no reasonable explanation for sending a simulated dial tone to speakerphones, handsets, etc., that have real dial tones. Any explanation would simply be inconsistent with the specification and improper. This is another reason why claims 19-25 and 29 are allowable.

IV. CONCLUSION

For the foregoing reasons, Appellant respectfully submits that the claimed invention is not rendered obvious by the cited combination of references, and reversal of the final grounds of rejection is respectfully solicited.

Dated: December 14, 2007

Respectfully submitted,

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